| Notice of Allowability | Application No. | Applicant(s) | |
|--|---|--|-------|
| | 09/944,708 | KELLY ET AL. | |
| | Examiner | Art Unit | |
| | Marc Jimenez | 3726 | |
| The MAILING DATE of this communication appeal All claims being allowable, PROSECUTION ON THE MERITS IS herewith (or previously mailed), a Notice of Allowance (PTOL-85) NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIOF the Office or upon petition by the applicant. See 37 CFR 1.313 | (OR REMAINS) CLOSED i or other appropriate comm IGHTS. This application is | in this application. If not included nunication will be mailed in due course. | |
| 1. \boxtimes This communication is responsive to <u>the appeal brief filed</u> | <u>on 11/24/04</u> . | | |
| 2. 🔀 The allowed claim(s) is/are <u>1-13</u> . | | | |
| 3. The drawings filed on 31 August 2001 are accepted by the | Examiner. | | |
| 4. Acknowledgment is made of a claim for foreign priority ur a) All b) Some* c) None of the: 1. Certified copies of the priority documents have 2. Certified copies of the priority documents have 3. Copies of the certified copies of the priority documents have International Bureau (PCT Rule 17.2(a)). * Certified copies not received: | e been received. e been received in Application | on No | າ the |
| Applicant has THREE MONTHS FROM THE "MAILING DATE" noted below. Failure to timely comply will result in ABANDONM THIS THREE-MONTH PERIOD IS NOT EXTENDABLE. | | e a reply complying with the requiremer | nts |
| A SUBSTITUTE OATH OR DECLARATION must be subm INFORMAL PATENT APPLICATION (PTO-152) which give | | | ЭF |
| 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") mus (a) ☐ including changes required by the Notice of Draftspers 1) ☐ hereto or 2) ☐ to Paper No./Mail Date (b) ☐ including changes required by the attached Examiner's Paper No./Mail Date Identifying indicia such as the application number (see 37 CFR 1 each sheet. Replacement sheet(s) should be labeled as such in the post attached Examiner's comment regarding REQUIREMENT I | son's Patent Drawing Reviews s Amendment / Comment o .84(c)) should be written on the header according to 37 Cl sit of BIOLOGICAL MAT | or in the Office action of the drawings in the front (not the back) of FR 1.121(d). ERIAL must be submitted. Note the | |
| Attachment(s) | | | |
| 1. Notice of References Cited (PTO-892) | | nformal Patent Application (PTO-152) | |
| 2. Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No. | Summary (PTO-413), ./Mail Date | |
| Information Disclosure Statements (PTO-1449 or PTO/SB/0 Paper No./Mail Date | 8), 7. ∐ Examiner's | Amendment/Comment | |
| 4. Examiner's Comment Regarding Requirement for Deposit | | Statement of Reasons for Allowance | |
| of Biological Material | 9. | Marc Jimenez Primary Examiner Art Unit 3726 2/15/05 | neno |

Application/Control Number: 09/944,708

Art Unit: 3726

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:

Applicant's arguments, see pages 5-17 of the appeal brief, filed 11/24/04, with respect to the rejection of claims 1-5 and 8-11 under 35 U.S.C. 103(a) over Hunt in view of King et al. have been fully considered and are persuasive. The rejection of claims 1-5 and 8-11 has been and withdrawn.

It is agreed that the secondary reference to King et al. teaches casting but there is no extrusion being performed as claimed. Furthermore, there is no specific teaching in King et al. of using at least about 12 grains in the cross section. Therefore, the combination of Hunt and King et al. would not arrive at the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number (571) 272-4530. The examiner can normally be reached on Monday-Friday between 5:30 a.m.-2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 273-4530. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Application/Control Number: 09/944,708

Art Unit: 3726

Page 3

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marc Jimenez

Primary Examiner Art Unit 3726

MJ

February 15, 2005